

LEGAL FACT SHEET

Who May Apply for Benefits and What is Required

Public Assistance Application for caregivers who are not citizens:

- **page 3** of application asks for social security number of all applying household members. A caregiver would not have to disclose their own information UNLESS they were applying for SNAP benefits.
- **page 5** asks applicants to check whether they are 1) citizen/national 2) non-citizen and if non-citizen (USCIS alien registration number). Again, if a household is applying for SNAP would require the entire household to list this information, while PA only requires those who are applying to list this information.
- **page 7** asks for tax status of each individual living in the household, not just the applicants
- **page 9** asks: "Is anyone in your household a non-citizen with satisfactory immigration status who was sponsored for admission into the US?" and then asks for name and contact info of sponsor

Applying for SSI:

In applying for child's SSI benefits, a grandparent must be prepared to give detailed information about the child's medical condition and how it affects his or her ability to function on a daily basis. Social Security works with state agencies in reaching these determinations. They will need permission for the doctors, teachers, therapists and other professionals who have information about the child's condition to send the information to them. School records are also useful this way. All of the information is sent to the Disability Determination Services in each state. Doctors and other trained staff in that state agency will review the information, and will request the child's medical and school records, and any other information needed to decide if the child is disabled. If the state agency cannot make a disability decision using only the medical information, school records and other facts they have, they may ask to take the child for a medical examination or test, paid for by Social Security.

Who May Sign An SSI Application?:

§ 416.310. What makes an application a claim for benefits?:

An application will be considered a claim for benefits, if the following requirements are met:

- An application form prescribed by social security must be filled out.
- be filed at a social security office, at another Federal or State office they have designated to receive applications for them, or with a person they have authorized to receive applications for them. See § 416.325.
- The claimant or someone who may sign an application for the claimant must sign the application. See §§ 416.315 and 416.320.
- The claimant must be alive at the time the application is filed. See §§ 416.340, 416.345, and 416.351 for exceptions.

LEGAL FACT SHEET

§ 416.315. Who may sign an application?:

Social Security will determine who may sign an application according to the following rules:

- If you are 18 years old or over, mentally competent, and physically able, you must sign your own application. If you are 16 years old or older and under age 18, you may sign the application if you are mentally competent, have no court appointed representative, and are not in the care of any other person or institution.
- If the claimant is under age 18, or is mentally incompetent, or is physically unable to sign the application, a court appointed representative or a person who is responsible for the care of the claimant, including a relative, may sign the application. If the claimant is in the care of an institution, the manager or principal officer of the institution may sign the application.
- To prevent a claimant from losing benefits because of a delay in filing an application when there is a good reason why the claimant cannot sign an application, social security may accept an application signed by someone other than a person described in this section.

§ 416.320. Evidence of authority to sign an application for another.

- A person who signs an application for someone else will be required to provide evidence of his or her authority to sign the application for the person claiming benefits under the following rules:
 - If the person who signs is a court appointed representative, he or she must submit a certificate issued by the court showing authority to act for the claimant.
 - If the person who signs is not a court appointed representative, he or she must submit a statement describing his or her relationship to the claimant. The statement must also describe the extent to which the person is responsible for the care of the claimant. This latter information will not be requested if the application is signed by a parent for a child with whom he or she is living. If the person signing is the manager or principal officer of an institution he or she should show his or her title.
- Social Security may, at any time, require additional evidence to establish the authority of a person to sign an application for someone else.

SSI Payee:

The order of preference for selecting a representative payee for a minor child is:

- A natural or adoptive parent who has custody of the beneficiary, or a guardian;
- A natural or adoptive parent who does not have custody of the beneficiary, but is contributing toward the beneficiary's support and is demonstrating strong concern for the beneficiary's well-being;
- A natural or adoptive parent who does not have custody of the beneficiary and is not contributing toward his or her support but is demonstrating strong concern for the beneficiary's well-being;
- A relative or step-parent who has custody of the beneficiary;
- A relative who does not have custody of the beneficiary but is contributing toward the beneficiary's support and is demonstrating concern for the beneficiary's well-being;
- A relative or close friend who does not have custody of the beneficiary but is demonstrating concern for the beneficiary's well-being; and
- An authorized social agency or custodial institution. *20 CFR §416.621(c)*

LEGAL FACT SHEET

Birth Certificates:

Who can request a birth certificate?

- Section 35.2 of Part A (Vital Records) of the New York State Regulations provides that a birth certificate may be issued by court order, by request of the person if over 18, “by request of a parent or other lawful representative of the person to whom the record of birth relates,” or by the Commissioner, and shall be issued for “any proper purpose,” which excludes profit making or commercial activity or to “satisfy idle curiosity.” Caregivers who are legal guardians and legal custodians are clearly “other lawful representative[s].” However, there is some uncertainty regarding who else may fit the statutory definition of “other lawful representative.”
- One example of "lawful authority" is someone who has statutory authority. In the Education Law’s and the Public Health Law’s definitions of a “person in parental relation to a child,” persons who are named in this statute should qualify as a “lawful representative.” A caregiver may qualify as a “person in parental relationship” and thus as a "lawful representative" because the parents are dead, disabled, or missing or because the parents have designated the caregiver.

Where to Access Birth Certificates:

Each city, incorporated village, and town keeps its own birth certificate records. In New York City, birth certificates are controlled by the NYC Department of Health. New York City is the only place whose regulations supersede the New York State regulations.

From the Department of Health Website:

Who is eligible to obtain a birth certificate copy?

- The person named on the birth certificate.
- A parent of the person named on the birth certificate (requesting parent's name must be on birth certificate).
- Only by order of a New York State Court may a spouse, child, or other persons obtain a copy of a birth certificate.

Identification Requirements - application *must* be submitted with copies of either A or B:

- A. One (1) of the following forms of valid photo-ID:
- Driver license
 - State issued non-driver photo-ID card
 - Passport
 - U.S. Military issued photo-ID
- B. Two (2) of the following showing the applicant's name and address:
- Utility or telephone bills
 - Letter from a government agency dated within the last six (6) months

LEGAL FACT SHEET

Ordering a birth certificate copy:

Choose a method of ordering and follow the appropriate link below. You will find ordering information and forms to download.

- Order over the Internet
- Order by telephone
- Order by mail

Ordering a Social Security Card

Who May Apply for the Child:

- Parents or **guardians** may request a Social Security Registration number for a minor and must submit documents to establish “the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual.”
- The **law is unclear on whether legal custodians or persons with a parental authorization may apply** for a child. It is best to contact the local Social Security office in order to determine who can apply.
- To apply for an original number, it is necessary to provide at least two documents that prove age, identity, and U.S. citizenship or current lawful, work-authorized immigration status of the child. The person applying for the number must also prove his or her identity. All documents must be originals or certified copies.

How to apply:

- You should go to your local Social Security office, complete the application, and bring your original documents.
- You can find your local office by calling 1-800-772-1213 or by typing your zip code in here: <https://www.ssa.gov/locator/?URL=%2Fapps6z%2FFOLO%2Ffo001.jsp>
- If the child is age 12 or older and has never been assigned a Social Security number before, he or she must apply in person. If the child is under age 18, he or she or a parent or legal guardian may sign. If the child is physically or mentally incapable of signing the application, generally a parent, close relative, or legal guardian may sign the application. If the child is age 18 or older, he or she must sign the application.

The above information is not legal advice. It is not a substitute for consulting an attorney. Up-to-date legal advice and legal information can only be obtained by consulting with an attorney. Any opinions, legal opinions, findings, conclusions or recommendations expressed in this publication or on the NYS Kinship Navigator website or by any person or entity to whom you may be referred are those of the Kinship Navigator, Catholic Charities Family and Community Services and/or the person or entity you are referred to and do not necessarily represent the official views, opinions, legal opinions or policy of the State of New York and/or the New York State Office of Children and Family Services (OCFS). NYS Kinship Navigator is a Catholic Charities Family and Community Services program, funded by the New York State Office of Children and Family Services. Catholic Charities Family and Community Services is the only agency authorized by New York State to provide a statewide information and referral service to kinship caregivers. The information herein is published by the NYS Kinship Navigator.